IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

IN THE INTEREST OF: C.S. and C.S., Jr.

JUVENILE OFFICER,

Respondent,

v.

C.S., Sr. (Natural Father),

Appellant.

DOCKET NUMBER WD73782

MISSOURI COURT OF APPEALS WESTERN DISTRICT

DATE: November 1, 2011

APPEAL FROM

The Circuit Court of Jackson County, Missouri The Honorable Marco A. Roldan, Judge

APPELLATE JUDGES

Division Three: Karen King Mitchell, Presiding Judge, and James M. Smart, Jr., and Gary D. Witt, Judges

ATTORNEYS

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Attorney for Respondent,

Katherine J. Rodgers Kansas City, MO

Guardian ad litem,

Anthony L. Gosserand Kansas City, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE INTEREST OF: C.S.	and C.S., Jr.)	
JUVENILE OFFICER,)	
	Respondent,)	OPINION FILED:
v.)	November 1, 2011
C.S., Sr. (Natural Father),)	
)	
	Appellant.)	

WD73782 Jackson County

Before Division Three Judges: Karen King Mitchell, Presiding Judge, and

James M. Smart, Jr., and Gary D. Witt, Judges

C.S., Sr. ("Father") appeals the trial court's judgment terminating his parental rights as to his two children, C.K.S. and C.B.S., Jr. ("the twins"). On appeal, Father alleges that the trial court erred in finding statutory grounds upon which to terminate his parental rights as to the twins because the court's findings that Father neglected the twins as defined in RSMo 2000 section 211.447.5(2), and that Father was unfit to parent the twins under section 211.447.5(6) were both impermissibly based solely upon Father's incarceration.

This court affirms the trial court's judgment terminating Father's parental rights.

AFFIRMED.

Division Three holds:

In this case, the trial court's judgment may be affirmed on the basis that Father is unfit to parent the twins under section 211.447.5(6), and so we need not examine the trial court's finding that Father neglected the twins as defined in section 211.447.5(2).

While Father is correct that section 211.447.7(6) does not allow termination of a parent's rights pursuant to a statutory finding of neglect or abuse to be based solely upon the fact that the

parent is incarcerated, section 211.447.7(6) does not, by its own terms, apply to a court's statutory finding that a parent is unfit under section 211.447.5(6). Further, in this case, the trial court's finding that Father was unfit to parent the twins was not based solely upon his incarceration but also took into account: the lengthy term of incarceration that Father still faced; the fact that Father was incarcerated out of state, so that the twins could not visit Father; the tender age of the twins and the fact that Father had not had sufficient opportunity to bond with them prior to their mother's death; the fact that the twins' mother had passed away and that there was no other relative of Father's to help care for the twins and provide them needed stability, and the fact that the twins had a stable home with their maternal relatives. These facts constitute substantial evidence to support the trial court's finding that Father was unfit.

Opinion by: Karen King Mitchell, Judge

November 1, 2011

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.